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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	- CONFIRMATION NO.
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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/602,971

Applicant(s)

KOLLS, H. BROCK

Examiner

Stephen M Gravini

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-16, 18, 19, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-16, 18, 19, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 19/1-7-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Beckert et al. (US 6,202,008).

Claims 13-16 and 18 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Colson et al. (US 6,181,994).

Claims 19 and 22-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Spaur et al. (US 5,732,074).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

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Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8, 10-12, 13-16, 18-19, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over examiner's personal experience with a method and system of data communicating between at least one vehicle and at least one data processing resource as part of the examiner's personal experience with police radio or taxi cab operations. The recitation of an internet appliance is considered an automated feature of what is considered well known to those of examiner's similar experience with police radio or taxi cab operations. That recitation is also considered a design choice of a device that is old and well known for wireless or radio communications. Since at least 1990, examiner has observed the claimed invention of a method and system of data communicating between at least one vehicle and at least one data processing resource comprising:

an in-vehicle device installed in a vehicle, said in-vehicle device having a first wireless network interface; and

a device having:

a second wireless network interface, said second wireless network interface data communicates with said first wireless network interface; and

a plurality of communication interfaces, said plurality of communication interfaces communicate data between said second wireless network interface and a source to effectuate data communication between said in-vehicle device and said source; or

a device having a wireless interface, said wireless interface communicates data wirelessly with an in-vehicle device, said in-vehicle device, said in-vehicle device being installed in a vehicle; and

a source, said source data communicates with said device;

wherein said in-vehicle device by way of said communication interface device data communicates with said source; or

communicating a plurality of content wirelessly between an in-vehicle device and a device;

routing said plurality of content from said device to a source;

determining at said source a plurality of return content responsive at least in part to said plurality of digital content;

routing said plurality of return content to said device; and
communicating said plurality of return content wirelessly between said device and said in-vehicle device for at least one of display within the vehicle or modification of a

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function of the vehicle. Examiner also has personal experience with the various claimed interface, connection, wireless, in-vehicle, or source devices. As a police radio or taxi cab operations observer, examiner has frequently observed the system or method of data communicating between at least one vehicle and at least one data processing resource. The claimed in-vehicle device installed in a vehicle, said in-vehicle device having a first wireless network interface is considered equivalent to a commonly known police or taxi cab radio having a wireless interface with a dispatcher. The claimed device having a second wireless network interface, said second wireless network interface data communicates with said first wireless network interface and a plurality of communication interfaces, said plurality of communication interfaces communicate data between said second wireless network interface and a source to effectuate data communication between said in-vehicle device and said source is considered equivalent to a police or taxi dispatcher using a wireless communication device to communicate with the police or taxi radio. The claimed device having a wireless interface, said wireless interface communicates data wirelessly with an in-vehicle device, said in-vehicle device, said in-vehicle device being installed in a vehicle is again considered equivalent to the police or taxi cab radio. The claimed source, said source data communicates with said device wherein said in-vehicle device by way of said device data communicates with said source is again considered equivalent to the police or taxi radio dispatcher. The claimed communicating a plurality of content wirelessly between an in-vehicle device and a communication interface device, routing said plurality of content from said device to a source, determining at said source a plurality of return

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content, routing said plurality of return content to said device and communicating said plurality of return content wirelessly between said device and said in-vehicle device is considered equivalent to the two-way communications between the radio dispatcher and the police or taxi radio operator. The various claimed interface, connection, wireless, in-vehicle, or source devices are also considered merely design choice of devices and are considered obvious variations of the devices commonly known to those skilled in the art of police and taxi wireless radio communications because those claim recitations perform the same function, with the substantially the same means or way, for substantially the same result as examiner's experience discussed. Overall the claimed invention is considered equivalent to old and well known steps observed by the examiner in police and taxi communication operations. The claimed invention contains automated features and are obvious variations to the examiner's experience that is so old and well known that the examiner will use Official notice to obviate that claimed subject matter. Examiner notes that it is old and well known to those skilled in the art of a method and system of data communicating between at least one vehicle and at least one data processing resource, that it would have been obvious to claim the invention as an internet appliance as recited by the applicant, in order to overcome the explicit teachings of examiner's personal experience discussed supra. It would have been obvious to one skilled in the art to provide that automated claimed system or method since those features are considered merely automated features of a concept that is old and well known. It is considered that an internet appliance is an automated feature of those performed by a radio dispatcher as discussed above, since those claim recitations

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perform the same function, with the substantially the same means or way, for substantially the same result as examiner's experience discussed. Please see *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) in which the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.

Furthermore the claimed invention has been part of examiner's experience except for the claimed wireless network connectivity interface, the claimed data processing resource, or the claimed digital content. Examiner considers the recited connectivity, data processing resource, or digital content to be obvious variations to normal radio airwave connectivity, communication source of data (processing resource), or analog content. To those skilled in the art that claimed subject matter is an obvious variation to what is known to be functionally equivalent since both perform the claimed invention in the same way, using the same means or method to achieve the same result. Finally, it is considered that the claimed internet appliance is merely an obvious variation, or design choice, to the method or system of communicating information or data as claimed by the applicant. It would have been obvious to one skilled in the art to claim an internet appliance for communicating since the wireless communication means and method discussed above performs substantially the same function, with the substantially the same means or way, for substantially the same result as examiner's experience discussed.

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Response to Arguments

Applicant's arguments with respect to claims 1-8,10-16,18,19,22 and 23 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Steve Gravini whose voice telephone number is (703) 308-7570 and electronic transmission / e-mail address is "steve.gravini@uspto.gov". Examiner can normally be contacted Monday through Friday from 6:00 a.m. to 3:30 p.m. **If applicants choose to send information by e-mail, please be aware that confidentiality of the electronically transmitted message cannot be assured.** Please see MPEP 502.02. Information may be sent to the Office by facsimile transmission. The facsimile transmission telephone numbers for TC-3600 are:

After-final	(703) 872-9327
Official	(703) 872-9306
Non-Official/Draft	(703) 872-9325


STEPHEN GRAVINI
PRIMARY EXAMINER

smg
March 7, 2004